

REMARKS

These remarks and comments are responsive to the Examiner's statements of reasons for allowance in the above-referenced application as presented on page 2 of the Notice of Allowability (paper no. 0905), under paragraph heading "Reasons for Allowance."

Applicant appreciates the allowance of the present application. Applicant submits herewith Comments on Statement of Reasons for Allowance in regard to the Examiner's statements included in the Notice of Allowability.

Applicant submits the Examiner's statement only pertains to claims which include limitations of a capacitor comprising a portion of amorphous material and another portion of crystalline material which is about 70%. Applicant respectfully submits such language does not pertain to nor limit any of the claims which do not include such language.

The Examiner is respectfully reminded that MPEP §1302.14 (8th ed., rev. no. 3, vol.

1) states, in part:

[w]here specific reasons are recorded by the examiner, **care must be taken to ensure that statements of reasons for allowance** (or indication of allowable subject matter) are accurate, precise, and ***do not place unwarranted interpretations, whether broad or narrow, upon the claims.*** The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible effects.

(emphasis added). In accordance with the above, Examiners are expected to prepare any statement of their reasons for allowance *accurately and precisely so as not to place unwarranted interpretations, whether broad or narrow, on the claims.* The Examiner must

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interpret the claims in accordance with their literal wording, and to the extent the Examiner has not already done so, such is mandated now. If the Examiner relies upon allowance based upon language not appearing in the claims, the Examiner must withdraw this Notice of Allowance and reject the claims in a new **non-final** action. Then, Applicant can respond as they deem appropriate.

Alternatively, Applicant requests that the Examiner formally withdraw the statements of reasons for allowance and issue a new Notice of Allowance.

Respectfully submitted,

Dated: 12-5-05

By: 

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